

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DAVID LEE HARBIN

PLAINTIFF

V.

NO. 4:17-CV-45-DMB-RP

WARDEN MARSHAL TURNER, et al.

DEFENDANTS

ORDER

On December 28, 2017, this Court dismissed for failure to state a claim David Lee Harbin's 42 U.S.C. § 1983 action challenging conditions of his confinement. Doc. #17. On or about January 11, 2018, Harbin filed an "Application for Certificate of Appealability." Doc. #18. A certificate of appealability is appropriate only in cases seeking a petition for a writ of habeas corpus. Rule 11, Rules Governing Section 2254 Cases in the United States District Courts. Because Harbin does not seek a petition for a writ of habeas corpus in this matter, a certificate of appealability is unnecessary in the present case. Accordingly, Harbin's motion [18] is **DENIED as moot**.

SO ORDERED, this 19th day of June, 2018.

/s/Debra M. Brown

UNITED STATES DISTRICT JUDGE